

**REMARKS**

Claims 43 and 67 are currently amended. Claims 1-42 and 46-66 are canceled. Claims 44-45, and 68-86 were previously presented. New claim 87 is added. Accordingly, claims 43-45, and 67-87 are pending examination.

**Rejection of Claim 43 Under 35 USC §112**

Claims 43-45 and 67-86 are rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement.

The pending Office Action indicates that this rejection is being made for the following reason:

It is unclear where exactly the second location is supposed to be situated and where the tab is supposedly attached and not attached... it is impossible to determine from the claim language where the second location is going to be located and where the tab should and should not be "attached." Therefore as long as the prior art teaches attaching the tab anywhere on the cap, it will read on the second location as recited.

Claim 43 is amended to recite that "the second location (is) further from the first location than a centerpoint of the second end cap is from the first location." Since this arrangement is illustrated in Figure 24, the Applicant was in possession of this subject matter at the time of filing.

Additionally, there seems to be some confusion as to the distinction between items that simply contact one another and items that are connected or attached. In response, the Applicant has amended the claims to recite "the tab (is) immobilized relative to the second end cap at the second location but not ... immobilized relative to the second end cap over the entire distance from the first location to the second location."

Since Figure 24 illustrates a portion of the tab contacting the cap without being immobilized relative to the cap, this language describes the content of Figure 24.

The specification describes Figure 24 such that it is clear that the Applicant was in possession of the claimed subject matter at the time of filing. For instance, Figures 21-23 show a tab immobilized relative to a cap at a second location (110). Additionally, Figure 22 shows that a de-attached portion of tab is not immobilized relative to the cap over the distance extending from the case to the second location. The specification teaches that the transition from Figure 22 to Figure 24 is a result of bending the tab into the case. For instance, the specification teaches that the “flexible tab 94 (of Figures 21-23) can be bent into the configuration depicted in Figure 24” (paragraph 51). Bending the tab does not cause the de-attached portion of the tab to become immobilized relative to the end cap. However, the attachment at 110 remains intact. As a result, the Applicant was in possession of the claimed subject matter at the time of filing.

#### **Rejection of Claim 43 Under 35 USC §103**

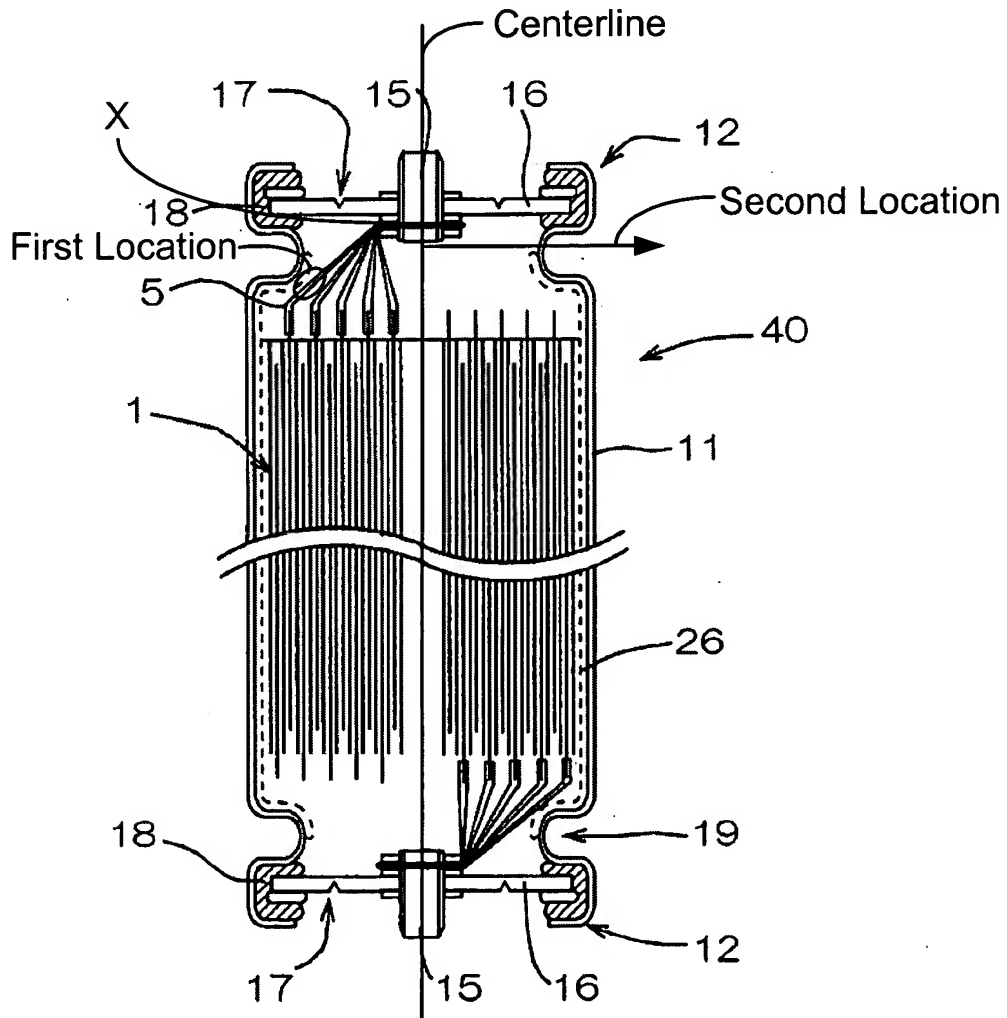
Claims 43 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,501,916 (Teramoto) in view of U.S. Patent No. 6,399,242 (Kitoh).

Claim 43 recites that “the second location (is) further from the first location than a centerpoint of the second end cap is from the first location (and) the tab ... not being immobilized relative to the second end cap over the entire distance from the first location to the second location.” As a result, in order to support the obviousness rejection, the cited art much teach or suggest that the tab is not immobilized relative to the second end cap from the first location to a second location that is further from the first location than the centerpoint is from the first location.

The Office Action cites Figure 4 of Kitoh for the required teaching. In the below diagram, the Applicant has added four labels to Figure 4 of Kitoh. The Applicant has labeled a location adjacent to Kitoh’s case as a first location. The Applicant has labeled a line through the center of a cap as the centerline. The Applicant has also labeled locations that are further from the first location than the centerline as the second location.

The Applicant has also added a label X to Figure 4 of Kitoh. The location marked X is closer to the first location than the centerline and the tab is immobilized relative to

the cap at this location. As a result, Kitoh's Figure 4 does not teach or suggest teach a tab that is not immobilized relative to the second end cap from the first location to a second location that is further from the first location than the centerpoint is from the first location. As a result, the tabs disclosed in Figure 4 of Kitoh do not provide the required teaching or suggestion.



Teramoto also does not provide the required teaching or suggestion. As a result, the cited art does not teach or suggest every element of the claim 43, and claim 43 is patentable over Teramoto in view of Kitoh.

**Rejection of claims 44-45, and 67-87**

Claims 44-45, and 67-87 each depends directly or indirectly from independent claim 43. Since claim 43 is believed to be in condition for allowance, these claims are also believed to be in condition for allowance.

**CONCLUSION**

Applicant submits that the claims define patentably over the prior art and that this application is in condition for allowance. Accordingly, favorable consideration and allowance of this application is courteously requested.

The Examiner is encouraged to telephone the undersigned with any questions.



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